

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6853 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KHIMJIBHAI K GONDALIYA

Versus

STATE OF GUJARAT

Appearance:

MR RK MISHRA for Petitioner

MR SR DIVETIA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/08/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner, a primary teacher, working in the respondent-school, filed this special civil application against the order of the respondents treating him to be untrained teacher and fixing him in the lower pay scale of Rs.950-1400 and further ordering for the recovery of the difference of the salary.

3. Two pay scales for primary teachers have been prescribed on the basis of qualifications, known as untrained teacher and trained teacher pay scales. The petitioner possesses the qualification of B.A. B.Ed. and he was treated as trained teacher and accordingly he was given the pay scale of trained teacher, but as he was not possessing the qualification of P.T.C., he was treated to be untrained teacher and consequently his pay has been ordered to be reduced and the order of recovery has been made. The petitioner had challenged that order in this special civil application and copy of which has been filed as annexure 'A'.

4. It is not necessary to go on all the facts of the case as well as the grounds raised in the petition as the counsel for the petitioner contended that the matter is squarely covered by the decision of this Court given in special civil application No.9498/95 decided on 17-3-1997 and this position is not disputed by the counsel for the respondent. Copy of the aforesaid decision has been filed on record of this petition and I am satisfied that the point in issue was directly in issue in that case. In that case also, the petitioners therein were treated to be unqualified primary teachers as they were not possessing the qualification of P.T.C.. This Court has taken the view that the teachers who were possessing the qualification of B.A. B.Ed. cannot be treated to be unqualified primary teachers.

5. In the result, this special civil application is allowed and the order of the respondent annexure 'A' is quashed and set aside. Rule made absolute with no order as to costs.

zgs/-